

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Richard N. Fargo
Serial Number: 10/537,384
Filed: 06/03/2005
Group Art Unit: 3651
Examiner: Singh, Kavel
Title: DRIVE BELT FOR A PASSENGER CONVEYOR

REQUEST FOR RECONSIDERATION

Mail Stop AF
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

This paper is responsive to the Final Office Action mailed on November 18, 2008. Applicant respectfully requests reconsideration of this application.

Applicant thanks the Examiner for the indication of allowable subject matter. For the following reasons, all claims are allowable.

Applicant respectfully traverses the rejection of claims 1-4, 6, 8, 13, 14, 15, 16, 18, 19 and 26 under 35 U.S.C. §103 as being unpatentable over the *Boltrek* reference in view of the *Hart* reference. The Examiner's proposed modification to the *Boltrek* reference cannot be made because it would render *Boltrek's* metal step chain unsatisfactory for its intended purpose. A metal step chain is required to carry the loads associated with a step chain for an escalator as taught in the *Boltrek* reference. The Examiner proposes to modify the metal step chain of *Boltrek* by replacing it with a urethane material. That would render the step chain unable to perform its intended function and would render the entire structure of the *Boltrek* reference inoperative.

Such a modification to the *Boltrek* reference cannot be made for purposes of attempting to manufacture a *prima facie* case of obviousness. See, e.g., MPEP 214.01(V) and (VI).

Therefore, there is no *prima facie* case of obviousness and the rejection must be withdrawn.

Applicant also respectfully traverses the rejection of claims 9 and 23-25 under 35 U.S.C. §103 based upon the proposed combination of the *Boltrek*, *Hart* and *Novak* references. This combination cannot be made for the same reasons already mentioned. The *Boltrek* reference cannot be modified with the *Hart* reference as proposed by the Examiner. The proposed additional teachings of the *Novak* reference does not remedy the defect in the base combination and cannot be made in any event. The Examiner contends that urethane of *Novak* is useful because it is "stretchable" but that is the exact reason why the combination cannot be made. If the step chain of the *Boltrek* reference were made stretchable, it would no longer perform as the step chain of the *Boltrek* reference is required to perform. The proposed combination cannot be made. There is no *prima facie* case of obviousness. The rejection must be withdrawn.

This case is in condition for allowance.

Respectfully submitted,

CARLSON, GASKEY & OLDS

By: 

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Dated: December 8, 2008

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